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STATE REPRESENTATIVE ♦ 42ND ASSEMBLY DISTRICT

TESTIMONY – Assembly Bill 500 Assembly Committee on Criminal Justice and Corrections March 1, 2012 – 400 NE

Thank you Chairman Bies and committee members for scheduling Assembly Bill 500 (AB500), which adds kindergarten to the definition of a school for purposes of defining the gun-free school zone law. I authored this bill at the request of the Baraboo School District and other districts in the state with stand-alone kindergarten facilities.

The current laws that create and define gun-free school zones were written over 20 years ago. At that time there were very few stand-alone kindergartens in Wisconsin. Our law then was modeled on the federal Gun-Free School Zone Act of 1990, which prohibits the possession or discharge of a firearm with a school zone.

With some exceptions, including those exceptions created by passage of 2011 Act 35, a citizen is prohibited from possessing a firearm in or on the grounds of a school or within 1000' of a school zone. However, the definition of a school for purposes of defining a gun-free school zone currently includes only includes grades 1 through 12.

As a result of this omission, there are kindergarten-only school facilities in at least 25 school districts that are not currently protected as gun-free school zones. In school districts from Racine to Grantsburg there are thousands of four and five year-olds attending school every day who do not enjoy the same protections as their older brothers and sisters or older neighbors who attend school in the same community. In most cases the parents of these students are not even aware that their youngest children do not enjoy these same protections.

As I have been talking to school administrators around the state, many of them were also unaware that their stand-alone kindergarten facilities were not allotted the same protections as the other educational facilities in their district. I have been advised that this disparity in our laws creates unique legal and liability issues for schools. The decision of whether to post no weapon signage at school entrances is now complicated because our laws create a dual status for some schools within the same district.

Both public school districts and private schools face an additional burden dealing with the legal and safety issues surrounding this oversight in the law. With Wisconsin's steady growth in stand-alone kindergarten facilities, we are leaving our youngest and most vulnerable students at increased risk of gun violence.

AB500 remedies this omission by broadening the definition of "school" for the purpose of gun-free school zones to include prekindergarten, 4-year-old, and 5-year-old kindergarten. We begin educating our children well before first grade so it's only responsible that we provide all of our students the same protections under the gun-free school law.

I ask for your support for this common sense legislation, and I offer to work with any member of this committee to address any concerns you may have.



SCHOOL DISTRICT OF BARABOO

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AB500 Testimony in Favor
Doug Mering Vice President
School District of Baraboo
Board of Education

March 1, 2011

Many school districts have reviewed their weapons policies in response to the new Wisconsin Carrying Concealed Weapon Law. Although the Wisconsin Carrying Concealed Weapon Law generally allows individuals with training and registration to carry concealed weapons in some public places, there are specific laws that make such concealed carry illegal when it occurs in or around schools. Under the Wisconsin gun-free school zone law, there is a general prohibition against a person knowingly possessing a "firearm" in or on "school" grounds. In Wisconsin, "school" is defined as a public school, parochial or private school or tribal school, which provides an educational program for one or more grades between grades 1 and 12 which is commonly known as an elementary school, middle school, junior high school, senior high school, or high school. Unfortunately, this statutory definition does not include a school which provides an educational program for kindergarten and or prekindergarten students only, such as the West School Kindergarten Center which currently is home to 117 of our Baraboo School District students. It is my understanding that there are at least 13 other centers such as this in the State of Wisconsin. Under the current statutory definition of "school", the students at West School would not be protected under the same laws granted to other students across the state. I am in favor of AB500 that revise the current statutory definition of "school" that includes grades prekindergarten through grade 12."

Attached for reference: **Baraboo School District Policy 832 Firearms and Other Weapons**

FIREARMS AND OTHER WEAPONS

BARABOO SCHOOL BOARD POLICY

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No person shall possess, be armed with, store, or use a firearm or other weapon, whether unconcealed or concealed, in or on grounds of a school, on school premises, in or on school buses or district-owned vehicles, or at school-related activities, unless otherwise specifically permitted by law. This prohibition applies to all students, employees, parents, guardians, or other visitors at all times. Although the Wisconsin Carrying Concealed Weapon (CCW) Law generally allows individuals with training and registration to carry concealed weapons in some public places, there are specific laws that make such concealed carry illegal when it occurs in or around schools in which education of children occurs and on other property owned or operated by the District, and the District is not required to post signs in order for such prohibition of firearms and weapons (concealed or otherwise) to apply in such locations. This policy does not apply to law enforcement officers who are acting in their official capacities or duties and does not apply to the extent such possession is specifically permitted under state or federal law.

“Dangerous weapon” means any firearm, whether loaded or unloaded; any device designed as a weapon and capable of producing great bodily harm; any electric weapon or any other device or instrument which, in the manner it is used or intended to be used, is calculated or likely to produce great bodily harm. “Great bodily harm” means bodily injury which creates a substantial risk of death, or which causes serious permanent disfigurement, or which causes a permanent or protracted loss or impairment of the function of any bodily member or organ or other serious bodily injury.

All persons who violate this policy will be referred to the appropriate law enforcement agency. Students found to be in violation of this policy are subject to disciplinary action that may include suspension and/or expulsion from school and/or legal action. Any student who brings a firearm or weapon to a school shall be referred to the criminal justice system or juvenile delinquency system.

Employees found to be in violation of this policy are subject to disciplinary action that may include suspension and/or termination and/or legal action consistent with any applicable bargaining agreement. Any employee who reasonably believes that an employee, visitor, student, or other person has a weapon in violation of this policy, the employee must report such belief to their supervisor.

Visitors found to be in violation of this policy will be removed from the premises and/or be subject to legal action.

Any entity with verbal or written contracts with the District, including but not limited to 4K site providers, shall ensure the safety of District students by ensuring that, to the extent permitted by law, the possession, carrying, use, or storage of weapons at any

building owned by the contractor where the students may be present pursuant to the contract.

All employees are also prohibited from possessing or carrying weapons in their employment or during any part of the course of their employment, including on school field trips or during other school sponsored activities that are not held on school grounds. Individuals who volunteer for any school-related function shall also be prohibited, unless specifically authorized by law, from possessing or carrying weapons in the course of their volunteer activities.

LEGAL REF.: Sections 120.13 (1), 121.02 (1)(i), 941.235, 948.55, 948.60,
948.605, 948.61, Wisconsin Statutes
Wisconsin Concealed Carry Law
Gun Free School Zone

CROSS REF.: 446 Search and Seizure
446.1 Search of Lockers and Other School Property
447.3 Student Suspensions
447.4 Student Expulsions
720 School Safety Plans
722.1 Reporting Personal Injury and Property Damage
Current Employee Agreements
School Safety Plan

ADOPTED: August 23, 1993

REVISED: November 13, 1995
February 14, 2005
December 12, 2011

March 1, 2012

Committee Members,

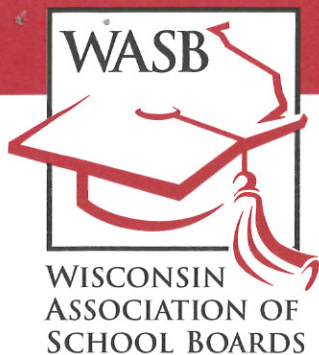
My name is Scott Brown, and I'm the Superintendent of the McFarland School District. We have a school building in our district, named Conrad Elvehjem Early Learning Center, which houses our early childhood program and regular kindergarten. When Act 35 was voted into law, we immediately posted signs on the entrances of all our buildings. We heard many reassuring comments from our parents. I believe that if it became widely known in our community that one of our buildings did not have the same level of statutory protection as the others, we would have an outcry from parents and community members of all political stripes. In closing, our local police chief, Craig Shervin offered these words for me to share with you.

"It is of concern to me that we would opt to offer statutory protection for some children, and to not for others. In Law Enforcement, we strive to concentrate our greatest efforts on the youngest of our children, as they have the least capacity to perceive and react to danger.

I wholeheartedly support the inclusion of statutory weapons restriction protections for all of our children. I pray that I will never see the day in which we have to look into the eyes of shattered, grieving parents and some how attempt to rationalize why the children's lives in the next building over were worth protecting, but the life of their child was not. Please help us to protect our most precious resource, our children and reconsider including the most vulnerable of our age groups in this legislation."

Please pass AB 500 in this legislative session to truncate and diffuse growing public concerns about the current wording of Statute 948.61.

Thank You



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JOHN H. ASHLEY, EXECUTIVE DIRECTOR

TO: Members, Assembly Committees on Criminal Justice and Corrections
FROM: Dan Rossmiller, Government Relations Director
DATE: March 1, 2012
RE: Assembly Bill 500, relating to adding kindergarten to the definition of school for the purposes of the gun-free school law and the prohibition against weapons on school grounds.

The Wisconsin Association of School Boards (WASB), on behalf of the 424 public school boards in our state, supports Assembly Bill 500 although with some reservations.

The issue this bill seeks to address is whether prohibitions on firearm possession on “school grounds” should apply to free-standing facilities that house kindergartens or prekindergarten classes.

Although 2011 Wisconsin Act 35 grants a number of rights regarding carrying concealed weapons (CCW), certain restrictions on possessing firearms on school grounds apply. The WASB supports those restrictions.

In general, firearms are not allowed on school grounds, regardless of any rights afforded under Act 35. Further, although a CCW licensee may possess a firearm within 1,000 feet of school grounds, other individuals, including students, are prohibited from such possession.

Under the current definition of school, the law is clear that a kindergarten (whether for 5-year olds or 4-years) or a pre-kindergarten located within or attached to a school building where instruction in one or more grades between grade 1 and grade 12 is being provided is covered. Those kindergartens or pre-kindergartens are considered to be on school grounds.

However, kindergartens or pre-kindergartens located in buildings that are not attached to or part of a regular school building are not covered. Often, these are operated in partnership with a community-based organization and housed within the building of that organization. The WASB supports those partnerships, where local districts determine they are appropriate. However, these kindergartens or pre-kindergartens are not considered to be “school grounds” under current law and thus are not automatically covered under the law that generally prohibits firearm possession on school grounds.

These early education facilities are not totally without a remedy, however. Act 35 creates provisions in Wisconsin's trespass law under which owners of property may prohibit the carrying of concealed weapons if an appropriate notice is provided, including the posting of a sign in a prominent place near all of the entrances of the parts of the building to which the restriction applies. Individuals entering the building must be reasonably expected to see such signs, which must state simply the restriction imposed and, at a minimum should inform people that weapons and firearms are prohibited.

Such signs must be posted, however, or the prohibition does not apply. Assembly Bill 500 would cover these schools so the posting of special notices would not be required. While we support the bill, we think, however, that the posting of such signs would be useful and desirable given that it may not be intuitive that all of these unattached facilities house kindergartens and pre-kindergartens, particularly because they are remote from regular school grounds and many of the visible indicators of a regular school building may not be present or readily observable. We think an amendment requiring posting of signage at these remote locations would be useful to bolster awareness that the prohibition on firearm possession would apply at these locations as well as at more traditional school buildings.

Thank you for your consideration of Assembly Bill 500.

Additional Background

The members of the WASB have adopted a policy resolution stating support for school districts partnering with community-based organizations to provide early education services as follows:

The WASB supports high quality early child care/education services that benefit all Wisconsin children. If school districts choose to play an active role in expanding the availability of such services, the WASB supports them doing so in collaboration with parents, other public agencies and/or private businesses. Such services should meet the comprehensive needs of young children and families in their communities through the sharing of personnel, finances and facilities as available and appropriate.

The members of the WASB have also adopted a policy resolution about safe learning environments, which states:

The WASB supports safe learning environments for all children, free of guns and other weapons. Further, the WASB opposes any initiatives at the state or federal level that would legalize any further ability for anyone to bring a weapon or possess a weapon in school zones or lessen the consequences for violation of existing safe school policies relating to guns and other weapons.

In opposition to AB500

- 1) Not even the WI Department of Education knows if there are any standalone kindergartens in Wisconsin. If there aren't, this is a waste of time & tax money because it will have no practical effect. (I called the DOE when this bill was first introduced & talked with a woman there for probably 15 minutes. She said there's no way to know, no way to look it up.)
- 2) This seems to leave out day cares & home schools. But without them being written in & specifically stated as being not schools, some law enforcer will try to prosecute an armed citizen who walks or drives past.
- 3) Where's the definition of "educational programming"? Could a day care count? Again, if this does not specifically & clearly exclude child-care centers & home schools, there will be some law enforcer who tries to prosecute a regular non-criminal armed citizen.
- 4) As we've seen yet again, this week in Ohio, laws don't stop criminals. Schools are already favorite targets for mass murderers because they're easy targets – the good people are required to be unable to fight back... except in some states. Did you know that Utah hasn't had a school shooting, and Utah allows any licensed person to carry even inside a school?

So why is this bill going forward when nobody knows what effect it will have, the terms aren't defined, & the number of facilities is unknown?

If you want to modify the "gun-free" school zone law to do some real good:

- 1) allow any licensed person to carry a usable pistol on the grounds, (right now, anyone can carry a firearm that's unloaded & encased & there's no problem)
- 2) at the very least add an exception to 948.605 (3)(b) regarding the discharge of firearm in a school zone to clearly say that anyone acting in accordance with 939.45 through 939.48 is immune from prosecution. (Those are the laws about self-defense, coercion, necessity, etc.),
- 3) add a clearly-stated exception for people in their cars, whether or not they have a carry license.

fyi: private property is exempt from the 1000'
"gun-free" zone